

Forest Practices Board

2.1 Introduction

The Board has been involved over the last year in three major areas of interest that relate to aquatic species including; desired future condition, perennial non-fish bearing (Np) waters, and long-term permits for small forest landowners. The Board staff has also held stakeholder meetings for development of the Forest Practices Board Manual (the Board Manual) chapters related to Np streams and alternate plans (particularly the riparian function section of this manual). However, no new sections of the Board Manual have been presented to the Board for approval between June 5, 2006, and June 30, 2007.

2.2 Forest Practices Board History

The Board sets the specific standards that are the basis for the Forest Practices program. The state's Forest Practices Act established the Board in 1974 as an independent state agency. It directs the Board to adopt forest practices rules for non-Federal and non-tribal forestlands that protect public resources while maintaining a viable forest products industry.

Public resources include water, fish, wildlife, and capital improvements of the state or its political subdivisions.

The Board consists of twelve members and is staffed by DNR and chaired by the Commissioner of Public Lands (or designee). By law the Board includes five state agency directors (or designees) representing the Department of Natural Resources, Department of Community, Trade and Economic Development, Department of Ecology, Department of Agriculture, and the Department of Fish and Wildlife, and seven general public members who are appointed by the governor. The Board also includes two general public members designated as a forest landowner who owns less than 500 acres or as an independent logging contractor. In addition, the Board also includes a third general public member who is an elected county commissioner or council member. Following are the current (and past) Board members who served during this first annual reporting period (June 5, 2006 to June 30, 2007):

- Chair, Doug Sutherland, Commissioner of Public Lands
- Alternate Chair, Vicki Christiansen, Executive Director of Regulatory Programs
- Brent Bahrenburg, Department of Community, Trade and Economic Development designee
- Tom Laurie, Department of Ecology designee
- Ann Wick, Department of Agriculture designee (replaced Lee Faulconer, November 2006)
- Bridget Moran, Department of Fish and Wildlife designee
- Dave Somers, Snohomish County Commissioner (replaced Eric Johnson, July 2006)
- Doug Stinson, general public member and owner of less than 500 acres of forestland
- Sherry Fox, general public member and independent logging contractor

- David Hagiwara, general public member
- Carolyn Dobbs, general public member
- Norm Schaaf, general public member (replaced Toby Murray, December 2006)
- Bob Kelly, general public member

In addition to adopting rules, the Board also approves the Board Manual, an advisory technical supplement to the rules. The manual guides field practitioners and DNR regulatory staff when implementing certain rule provisions. The forest practices rules, together with the Board Manual, largely represent the State's protection measures for public resources.

The Board also directs the forest practices Adaptive Management (AM) program. The AM program provides science-based recommendations and technical information to assist the Board in determining if and when it is necessary or advisable to adjust rules and guidance in order to achieve established goals and objectives. The Board empowers four entities to participate in the AM program:

- 1) Cooperative Monitoring, Evaluation and Research Committee
- 2) Forests and Fish Policy
- 3) Adaptive Management Program Administrator
- 4) Scientific Review Committee (SRC).

The CMER Committee represents the science component of the program and oversees research and monitoring. Forests and Fish Policy considers CMER Committee research and monitoring findings and makes recommendations to the Board related to forest practices rule and/or guidance additions or amendments. Participation in both the CMER Committee and Forests and Fish Policy is open to representatives of forest landowners, environmental interests, tribal governments, county governments and state and Federal agencies. The AM program Administrator is a full-time employee of DNR and is responsible for overseeing the AM program, supporting the CMER Committee and reporting to Forests and Fish Policy and the Board. The SRC performs independent peer review of CMER Committee work to determine if it is scientifically sound and technically reliable. The SRC may also review non-CMER work, though it does not do so frequently.

2.3 Forest Practices Board Rule Making Activity (January 1, 2006- June 30, 2007)

Long-term Applications –The Board proposed to amend the rules authorizing DNR to grant approvals of small forest landowners' FPAs for longer terms than are currently authorized by rule – up to 15 years. Developing an option for 15 year management plans, compared to the current two-year management plan, would provide landowners with increased flexibility to conduct management activities at the most advantageous times for their specific circumstances and would reduce the number of FPAs a small forest landowner has to submit to DNR. The proposed rule also provides for an analysis of all long-term applications and their impact on resources when either a forest practices rule change is in process or a new species is listed as threatened or endangered.

At its June 2007 meeting, the Board approved draft language to initiate rule making by filing the Proposed Rule Making Form (CR 102), which is the form required to start rule making with the Office of the Code Reviser. The Board will consider rule adoption at its September 11, 2007 meeting.

Desired Future Condition – The Board is considering amending the rules pertaining to the desired future condition of streamside or riparian management zones in response to a petition for rule making submitted by Forests and Fish Policy. The Board incorporated a scientific-based AM process to determine the effectiveness of the 2001 forest practices rules in aiding Washington’s salmon recovery effort. Under this AM process, a scientific study was completed by the Board’s CMER, *Validation of the Western Washington Riparian Desired Future Condition (DFC) Performance Targets in the Washington State Forest Practices Rules with Data From Mature, Unmanaged, Conifer-Dominated Riparian Stands* (Schuett-Hames et. al., 2005). The validation study’s findings show that basal area¹ per acre of mature, unmanaged conifer-dominated riparian stands is significantly different from the basal area targets required in the rule. However, the study did not offer alternative basal area target values. The study also analyzed the difference between basal areas found in the five site classes² listed in the rules and concluded that there is no statistical difference for basal areas between site classes. Currently, the rules have different target basal areas for different site classes.

The Board’s rule amendment proposal affects WAC 222-30-021(1)(b) regarding allowable harvest in riparian management zones on Shorelines of the state (Type S waters) and fish bearing waters (Type F waters) in Western Washington and WAC 222-30-022 (1)(b)(iii) within the high elevation timber habitat type in Eastern Washington.

At the Board’s June 6, 2007 meeting, the Board approved distributing two rule proposals for a 30-day review and comment by the counties, WDFW and tribes pursuant to RCW 76.09.040(2).

Rule Proposal #1 uses one value, 325 sq. ft. per acre, for all site classes as the DFC basal area target for harvesting in inner zones. This is the median value of the data shown in the validation study. Otherwise it does not change the management approaches in current rules for thinning in the inner zone.

Rule Proposal #2 introduces alternative approaches to thinning in the inner zone. The proposal also includes a reduction of the minimum distances from the stream that harvest is allowed for harvest Option 2 (WAC 222-30-021(1)(b)(ii)(B)(II)) and includes the twenty trees per acre left in the harvest areas of the inner zone as part of the basal area requirement. The Board will consider initiating rule making at its September 2007 meeting.

¹ Basal area is the area in square feet of a cross section of a tree bole. Basal area per acre is the total square feet of all tree bole cross sections in the acre.

² Site class is an indicator of how productive a site is for growing timber.

Perennial Initiation Points –The Board received a petition for rule making from Forests and Fish Policy regarding perennial initiation points. A perennial initiation point is the uppermost point of flow for non-fish-bearing streams in areas where timber is harvested. A scientific study was completed under the scientific-based AM process. The study, *Type N Stream Demarcation Study, Phase I: Pilot Results* (Palmquist, 2005), indicated that the default basin sizes available for use in determining stream perennial initiation points were incorrect, i.e., they were too large.

On November 1, 2006, the Board adopted rule changes to WACs 222-16-030(3) and 222-16-031(4) that eliminated the option to use a default basin size. Instead, the rule requires landowners to locate on the ground the uppermost point of flow prior to harvesting timber. It affects landowners who have used a default basin size to determine the separation between non-fish seasonal and non-fish perennial streams. The rule became effective on December 15, 2006 and better identifies where protections are to begin for non-fish-bearing streams.

Road Maintenance and Abandonment Planning - Second Substitute House Bill (SSHB) 1095 (2003) amended portions of the Forest Practices Act and chapter 76.13 RCW, “Stewardship of Non-industrial Forests and Woodlands”, to limit the burden on small forest landowners from forest road maintenance and abandonment requirements.

On May 10, 2006, the Board adopted rules that implemented SSHB 1095 to allow for a simplified approach to road maintenance and abandonment planning for small forest landowners. The rules also provide a way for small forest landowners to get financial help from the state when they remove barriers to fish passage on their streams. The rule became effective June 18, 2006.

Upland Wildlife Planning – The Board, with WDFW, continues to conduct a comprehensive review of the forest practices rules and science for upland wildlife protection and development of cooperative management planning processes. This review and planning process, along with new species listings and the designation of critical habitat may result in future rule proposals.

Riparian Research Pilot Study – The Board approved pilot rule making for experimental research treatments that may result in the development of new or modified rules through the AM process.

This is a pilot that tests the effectiveness of various riparian management approaches at providing proper riparian functions along Np streams in western Washington. This project (Type N Experimental Buffer Treatment Study) is an experimental evaluation of the effectiveness of the riparian management zone (RMZ) prescriptions along Np streams and represents a critically important step in determining whether performance goals are being met. The study will achieve this evaluation by comparing the effectiveness of the Forests and Fish RMZ to alternative RMZs in maintaining important ecological functions provided by riparian forests. The ecological functions evaluated in this study include: large woody debris recruitment, shade, temperature, sediment filtering/bank stability, litterfall and downstream exports (nutrients, litter, and invertebrates). The project will

compare the currently required RMZ along Np streams to RMZs of greater length (100% of the Np stream reach) and lesser length (0% of the Np stream reach).

Northern Spotted Owl - The Board is considering rule making to address the duration and geographic scope of a moratorium on decertifying Northern Spotted Owl site centers. The Board will consider initiating rule making at its September 2007 meeting. An emergency rule was adopted that extends the moratorium on decertifying Northern Spotted Owl site centers to October 28, 2007. It was further extended to December 2008 to allow the Board time to review forest practices rules that protect spotted owl habitat.

Taylor's Checkerspot Butterfly - The Taylor's checkerspot butterfly was listed as a state endangered species by the Washington Fish and Wildlife Commission, effective March 2006. At the May 2006 Forest Practices Board meeting, the Board determined there is sufficient potential risk to Taylor's checkerspot butterfly from certain forest practices to consider rule-making and other protection strategies. The Board directed DNR staff to notify the public of its intention to consider rule making, and to distribute draft rule language for the 30-day review notice to counties, WDFW and tribes. DNR, in consultation with WDFW, held stakeholder meetings in late 2006 to determine an appropriate protection approach for the species. DNR will make its recommendations to the Board at the September 2007 meeting.

Historic Sites – At the August 2006 Forest Practices Board meeting, the Board directed DNR staff to notify the public of its intention to consider rule making and to develop clarifying language as it relates to historic sites within Class IV-Special.

2.4 Additional Forest Practices Board Business

Water Typing, Eastern Washington maps – DNR maintains a geographic information system database in which streams are classified according to water Type. In an effort to reduce the necessity for in-stream fish surveys, forests and fish stakeholders developed a model to predict where fish habitat would likely occur. There were objections to the accuracy of the model; therefore, the Board approved Forests and Fish Policy's objectives and the science-based information. Forests and Fish Policy addressed the issue through CMER's Instream Scientific Advisory Group. DNR improved the Geographic Information System (GIS) hydrography map layer by including new water Type maps for Eastern Washington. CMER concluded that no further evaluation of the model is necessary at this time. The resolution of the use of the model remains in Policy's work plan.

(Note: The Western Washington water Type maps were updated in 2005).

Forest Practices Board Manuals – The Board has not received any new Forest Practices Board Manual sections or modifications since June 2006. (See Section 2.6, **Forest Practices Board Manual**).

Adaptive Management See Adaptive Management section for additional detail. Since June 2006 the Board approved:

- CMER 2007 Work Plan and Budget for Tier 1 projects.
- A revised budget for the Hardwood Conversion project.

- DNR to expend AM funds to hire an AM project manager.

At this time, Forests and Fish Policy is not expected to submit any petitions for rule making in 2007.

2.5 Anticipated Forest Practices Board Direction

The Board will continue on-going rule making into 2008. Upland wildlife planning will be a focus with initial emphasis on the Northern Spotted Owl.

2.6 Forest Practices Board Manual

The Board Manual is an advisory technical supplement to the forest practices rules that provides technical background and guidance for DNR staff, forest landowners and cooperating agencies and organizations when implementing certain rule provisions.

The forest practices rules direct DNR to develop Board Manual sections, each of which provides guidance for implementing a specific rule or set of rules. For purposes of implementing the AM program, Forests and Fish Policy provides the forum for discussion and problem solving for the on-going implementation of the Forest Practices Act and rules. This includes engaging with DNR in the development of Board Manual sections dealing with aquatic resources.

DNR develops and makes modifications to the Board Manual in cooperation with Departments of Fish and Wildlife, Agriculture, Ecology and other affected agencies, affected tribes, and interested parties that have appropriate expertise. DNR staff coordinates the Board Manual development process and convenes and leads technical working groups of individuals with relevant background and experience. The process typically begins with the working group identifying key elements to be addressed. Once the key elements have been identified, the working group develops a draft that is reviewed within the working group and by persons with appropriate expertise outside the working group.

A final draft is first presented to Forests and Fish Policy for review and approval, then presented to the Board for consideration and approval. Sometimes it may be necessary to present the Board with a final product that represents a majority, rather than consensus, opinion. In situations where Forests and Fish Policy does not reach consensus, DNR staff informs the Board of the lack of consensus and provides a briefing on the outstanding issues before the Board takes action.

Because the Board Manual is an advisory supplement and not part of Title 222 WAC, approval by the Board is not subject to requirements of the Administrative Procedure Act. Therefore, Forest Practices Board Manual development and approval does not involve formal public hearings and SEPA review, although interested parties have the opportunities to contribute to manual development and to comment during Board meetings.

Forest Practices Board Manual Activity (June 5, 2006 – June 30, 2007)

As a result of new RMAP rules for small forest landowners, DNR convened a TFW stakeholder group from January- April 2006 to develop a new *Board Manual Section 3, Guidelines for Forest Roads* (Washington DNR 2007a). The Board approved this manual section at their May 2006 meeting.

The Board has not been presented any new Board Manual sections or modifications since June 2006. During this time, however, DNR has convened two stakeholder groups to develop guidance for two Board Manual sections.

A Forests and Fish Policy nominated stakeholder group met from May through October 2006 to draft Forest Practices Board Manual Section 23, *Guidelines for Field Protocol to Locate Mapped Divisions between Stream Types and Perennial Stream Identification* (Washington DNR 2007a). This manual was developed to provide field guidelines to locate the perennial initiation point (PIP) of Type Np waters as defined in proposed Type N Water rule language before the Board. However, the manual was not approved.

The Board remanded to Forests and Fish Policy further development of Type N Water rule language and directed DNR to stop working on guidance related to the location of Type Np Water PIPs in Board Manual Section 23 until a decision could be made on rule language. The Board asked that Forests and Fish Policy consider the development of proposed rule language a very high priority and directed Forests and Fish Policy to provide regular progress reports to the Board.

DNR is developing new guidelines for inclusion in Board Manual Section 21, *Guidelines for Alternate Plans* (Washington DNR 2007a). This guidance will assist landowners in the assessment and scheduling of maintenance and/or enhancement measures of riparian functions in their alternate plans. A stakeholder group including the Small Forest Landowner Working Group and Forests and Fish Policy representatives met from January through June 2007 to draft the riparian function guidance for inclusion in the manual. The modified Board Manual Section 21 will be presented to Forests and Fish Policy for approval in July 2007 and presented to the Board for approval in September 2007.